

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**WALTER J. JASIN, M.D.**

License No. 10086  
For the Practice of Allopathic Medicine  
In the State of Arizona.

Case No. MD-06-0089A

**CONSENT AGREEMENT FOR  
LETTER OF REPRIMAND AND  
PROBATION**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Walter J. Jasin, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other  
2 pending or future investigation, action or proceeding. The acceptance of this Consent  
3 Agreement does not preclude any other agency, subdivision or officer of this State from  
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject  
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this  
7 matter and any subsequent related administrative proceedings or civil litigation involving  
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
9 or made for any other use, such as in the context of another state or federal government  
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)  
13 to the Board's Executive Director, Respondent may not revoke the acceptance of the  
14 Consent Agreement. Respondent may not make any modifications to the document. Any  
15 modifications to this original document are ineffective and void unless mutually approved  
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not  
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes  
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that  
21 will be publicly disseminated as a formal action of the Board and will be reported to the  
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise  
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in  
25 force and effect.

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1 11. Any violation of this Consent Agreement constitutes unprofessional conduct  
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("violating a formal  
3 order, probation, consent agreement or stipulation issued or entered into by the board or  
4 its executive director under this chapter") and 32-1451.

5 12. Respondent has read and understands the condition(s) of probation.  
6

7   
8 \_\_\_\_\_  
9 WALTER J. JASIN, M.D.

DATED: 9/11/06

## FINDINGS OF FACT

1           1.     The Board is the duly constituted authority for the regulation and control of  
2 the practice of allopathic medicine in the State of Arizona.

3           2.     Respondent is the holder of license number 10086 for the practice of  
4 allopathic medicine in the State of Arizona.

5           3.     The Board initiated case number MD-06-0089A after receiving a complaint  
6 that Respondent performed surgery on a female infant patient ("LW") while impaired.

7           4.     On January 18, 2006 at 6:00 a.m. Respondent presented to the hospital to  
8 perform a bilateral myringotomy with pressure equalization tube insertion. Hospital staff  
9 ("Staff") noticed Respondent's behavior was unusual and he appeared impaired. The  
10 anesthesiologist ("Anesthesiologist") spoke to Respondent prior to surgery and, when she  
11 did not notice anything wrong or smell alcohol on Respondent's breath, decided to  
12 proceed with the surgery. However, during the surgery, Anesthesiologist and Staff  
13 noticed Respondent was taking longer than usual to perform the surgery. The  
14 Anesthesiologist and Staff also thought Respondent might be having a stroke because he  
15 was stumbling when he walked and was unable to direct his hand into LW's ear without  
16 assistance.

17           5.     After the surgery Staff noticed one of the tubes was not properly inserted  
18 and was lying inside LW's ear and called Respondent back into the room to place the  
19 tube correctly. Immediately afterwards Anesthesiologist asked Respondent to submit to a  
20 urine screen. Respondent agreed. Anesthesiologist then asked the hospital to cancel  
21 Respondent's remaining surgeries due to Respondent's impaired behavior. Respondent  
22 failed to submit to the urine screen and, despite a suggestion that someone else drive  
23 him home, drove himself home.

24           6.     Upon leaving the hospital Respondent went to his apartment in Sierra Vista  
25 and started drinking again around 7:00 a.m. Respondent then drove to his home in

1 Tucson. At 10:15 a.m. a police officer pulled Respondent over, smelled alcohol on his  
2 breath, and arrested him for driving under the influence. Respondent submitted to a blood  
3 alcohol test that revealed his blood alcohol content as .25, more than three times the  
4 legal limit in Arizona. Respondent agreed to enter the Betty Ford Center for assessment  
5 and treatment.

6 7. The standard of care requires a physician to refrain from performing surgery  
7 when impaired.

8 8. Respondent deviated from the standard of care because he performed  
9 surgery while impaired.

10 9. LW was kept under anesthesia longer than necessary because Respondent  
11 had to return to the operating room to correctly insert the tube and she was subject to the  
12 potential harm of improper and inadequate surgery that would have required further  
13 surgery.

#### 14 **CONCLUSIONS OF LAW**

15 1. The Board possesses jurisdiction over the subject matter hereof and over  
16 Respondent.

17 2. The conduct and circumstances described above constitute unprofessional  
18 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might  
19 be harmful or dangerous to the health of the patient or the public"); and A.R.S. § 32-  
20 1401(27)(f) ("[h]abitual intemperance in the use of alcohol or habitual substance abuse.")

**ORDER**

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for performing surgery while impaired.

2. Respondent is placed on Probation for **five years** with the following terms and conditions:

a. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation. The declarations shall be submitted on or before the 15th of March, June, September and December of each year, beginning on or before March, 2006.

b.1. **Participation.** Respondent shall promptly enroll in and participate in the Board's program for the treatment and rehabilitation of physicians who are impaired by alcohol or drug abuse ("MAP"). Respondent's participation in MAP may be unilaterally terminated with or without cause at the Board's discretion at any time after the issuance of this Order.

2. **Relapse Prevention Group.** Respondent shall attend MAP's relapse prevention group therapy sessions one time per week for the duration of this Order, unless excused by the MAP relapse prevention group facilitator for good cause such as illness or vacation. Respondent shall instruct the MAP relapse prevention group facilitators to release to Board Staff, upon request, all records relating to Respondent's treatment, and to submit monthly reports to Board Staff regarding attendance and progress. The reports shall be submitted on or before the 10th day of each month.

3. **12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-step meetings or other self-help group meetings appropriate for substance abuse and

1 approved by Board Staff, for a period of ninety days beginning not later than either (a) the  
2 first day following Respondent's discharge from chemical dependency treatment or (b)  
3 the date of this Order.

4       4.       Following completion of the ninety meetings in ninety days, Respondent  
5 shall participate in a 12-step recovery program or other self-help program appropriate for  
6 substance abuse as recommended by the MAP Director and approved by Board Staff.  
7 Respondent shall attend a minimum of three 12-step or other self-help program meetings  
8 per week for a total of twelve per month. Two of the twelve meetings must be Caduceus  
9 meetings. Respondent must maintain a log of all self-help meetings. Board Staff will  
10 provide the log to Respondent.

11       5.       **Board-Staff Approved Primary Care Physician.** Respondent shall  
12 promptly obtain a primary care physician and shall submit the name of the physician to  
13 Board Staff in writing for approval. The Board-approved primary care physician ("PCP")  
14 shall be in charge of providing and coordinating Respondent's medical care and  
15 treatment. Except in an *Emergency*, Respondent shall obtain medical care and  
16 treatment only from the PCP and from health care providers to whom the PCP refers  
17 Respondent. Respondent shall request that the PCP document all referrals in the  
18 medical record. Respondent shall promptly inform the PCP of Respondent's  
19 rehabilitation efforts and provide a copy of this Order the PCP. Respondent shall also  
20 inform all other health care providers who provide medical care or treatment that  
21 Respondent is participating in MAP.

22       a.       "*Emergency*" means a serious accident or sudden illness that, if not  
23 treated immediately, may result in a long-term medical problem or loss of life.

24       6.       **Medication.** Except in an *Emergency*, Respondent shall take no  
25 *Medication* unless the PCP or other health care provider to whom the PCP refers

1 Respondent prescribes the *Medication*. Respondent shall not self-prescribe any  
2 *Medication*.

3 a. "*Medication*" means a prescription-only drug, controlled substance, and  
4 over-the counter preparation, other than plain aspirin, plain ibuprofen, and plain  
5 acetaminophen.

6 7. If a controlled substance is prescribed, dispensed, or is administered to  
7 Respondent by any person other than PCP, Respondent shall notify the PCP in writing  
8 within 48 hours and notify the MAP Director immediately. The notification shall contain all  
9 information required for the medication log entry specified in paragraph 8. Respondent  
10 shall request that the notification be made a part of the medical record. This paragraph  
11 does not authorize Respondent to take any *Medication* other than in accordance with  
12 paragraph 6.

13 8. **Medication Log**. Respondent shall maintain a current legible log of all  
14 *Medication* taken by or administered to Respondent, and shall make the log available to  
15 the Board Staff upon request. For *Medication* (other than controlled substances) taken  
16 on an on-going basis, Respondent may comply with this paragraph by logging the first  
17 and last administration of the *Medication* and all changes in dosage or frequency. The  
18 log, at a minimum, shall include the following:

- 19 a. Name and dosage of *Medication* taken or administered;  
20 b. Date taken or administered;  
21 c. Name of prescribing or administering physician;  
22 d. Reason *Medication* was prescribed or administered.

23 This paragraph does not authorize Respondent to take any *Medication* other than in  
24 accordance with paragraph 6.



1           **9.     No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or  
2 any food or other substance containing poppy seeds or alcohol.

3           **10.   Biological Fluid Collection.** During all times that Respondent is physically  
4 present in the State of Arizona and such other times as Board Staff may direct,  
5 Respondent shall promptly comply with requests from Board Staff or MAP Director to  
6 submit to witnessed biological fluid collection. If Respondent is directed to contact an  
7 automated telephone message system to determine when to provide a specimen,  
8 Respondent shall do so within the hours specified by Board Staff. For the purposes of  
9 this paragraph, in the case of an in-person request, "promptly comply" means  
10 "immediately." In the case of a telephonic request, "promptly comply" means that, except  
11 for good cause shown, Respondent shall appear and submit to specimen collection not  
12 later than two hours after telephonic notice to appear is given. The Board in its sole  
13 discretion shall determine good cause.

14           **11.** Respondent shall provide Board Staff in writing with one telephone number  
15 that shall be used to contact Respondent on a 24 hour per day/seven day per week basis  
16 to submit to biological fluid collection. For the purposes of this section, telephonic notice  
17 shall be deemed given at the time a message to appear is left at the contact telephone  
18 number provided by Respondent. Respondent authorizes any person or organization  
19 conducting tests on the collected samples to provide testing results to the Board and the  
20 MAP Director.

21           **12.** Respondent shall cooperate with collection site personnel regarding  
22 biological fluid collection. Repeated complaints from collection site personnel regarding  
23 Respondent's lack of cooperation regarding collection may be grounds for termination  
24 from MAP.  
25

1           **13.    Out of State Travel and/or Unavailability at Home or Office Telephone**

2    **Number.**     Respondent shall provide Board Staff at least three business days advance  
3 written notice of any plans to be away from office or home when such absence would  
4 prohibit Respondent from responding to an order to provide a biological fluid specimen or  
5 from responding to communications from the Board. The notice shall state the reason for  
6 the intended absence from home or office, and shall provide a telephone number that  
7 may be used to contact Respondent.

8           **14.    Payment for Services.** Respondent shall pay for all costs, including  
9 personnel and contractor costs, associated with participating in MAP at time  
10 service is rendered, or within 30 days of each invoice sent to Respondent.

11          **15.    Examination.** Respondent shall submit to mental, physical, and medical  
12 competency examinations at such times and under such conditions as directed by the  
13 Board to assist the Board in monitoring Respondent's ability to safely perform as a  
14 physician and Respondent's compliance with the terms of this Order.

15          **16.    Treatment.** Respondent shall submit to all medical, substance abuse, and  
16 mental health care and treatment ordered by the Board.

17          **17.    Obey All Laws.** Respondent shall obey all federal, state and local laws,  
18 and all rules governing the practice of medicine in the State of Arizona.

19          **18.    Interviews.** Respondent shall appear in person before the Board and its  
20 Staff and MAP committees for interviews upon request, upon reasonable notice.

21          **19.    Address and Phone Changes, Notice.** Respondent shall immediately  
22 notify the Board in writing of any change in office or home addresses and telephone  
23 numbers.

24          **20.    Relapse, Violation.** In the event of chemical dependency relapse by  
25 Respondent or Respondent's use of drugs or alcohol in violation of the Order,

1 Respondent shall promptly enter into an Interim Consent Agreement for Practice  
2 Restriction that requires, among other things, that Respondent not practice medicine until  
3 such time as Respondent successfully completes long-term inpatient or residential  
4 treatment program for chemical dependency designated by Board Staff and obtains  
5 affirmative approval from the Board or the Executive Director to return to the practice of  
6 medicine. Prior to approving Respondent's request to return to the practice of medicine,  
7 Respondent may be required to submit to witnessed biological fluid collection, undergo  
8 any combination of physical examination, psychiatric or psychological evaluation and/or  
9 successfully pass the special purpose licensing examination or the Board may conduct  
10 interviews for the purpose of assisting it in determining the ability of Respondent to safely  
11 return to the practice of medicine. **In no respect shall the terms of this paragraph**  
12 **restrict the Board's authority to initiate and take disciplinary action for violation of**  
13 **this Order.**

14       **21.    Notice Requirements.**

15               (A) Respondent shall immediately provide a copy of this Order to all  
16 employers and all hospitals and free standing surgery centers where Respondent  
17 currently has privileges. Within 30 days of the date of this Order, Respondent shall  
18 provide the Board with a signed statement of compliance with this notification  
19 requirement. Upon any change in employer or upon the granting of privileges at  
20 additional hospitals and free standing surgery centers, Respondent shall provide the  
21 employer, hospital or free standing surgery center with a copy of this Order. Within 30  
22 days of a change in employer or upon the granting of privileges at additional hospitals  
23 and free standing surgery centers, Respondent shall provide the Board with a signed  
24 statement of compliance with this notification requirement.

1           **(B)** Respondent is further required to notify, in writing, all employers,  
2 hospitals and free standing surgery centers where Respondent currently has or in the  
3 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
4 alcohol in violation of this Order and/or entry into a treatment program. Within seven  
5 days of any of these events Respondent shall provide the Board written confirmation of  
6 compliance with this notification requirement.

7           **22.    Public Record.** This Order is a public record.

8           **23.    Out-of-State.** In the event Respondent resides or practices as a physician  
9 in a state other than Arizona, Respondent shall participate in the rehabilitation program  
10 sponsored by that state's medical licensing authority or medical society. Respondent  
11 shall cause the monitoring state's program to provide written reports to the Board  
12 regarding Respondent's attendance, participation, and monitoring. The reports shall be  
13 due quarterly on or before the 15th day of March, June, September, and December of  
14 each year, until the Board terminates this requirement in writing. The monitoring state's  
15 program and Respondent shall immediately notify the Board if Respondent: a) is non-  
16 compliant with any aspect of the monitoring requirements; b) relapses; c) tests positive  
17 for controlled substances; d) has low specific gravity urine drug test(s), missed and/or  
18 late urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo  
19 any additional treatment.

20           **24.** This Order supersedes all previous consent agreements and stipulations  
21 between the Board and/or the Executive Director and Respondent.

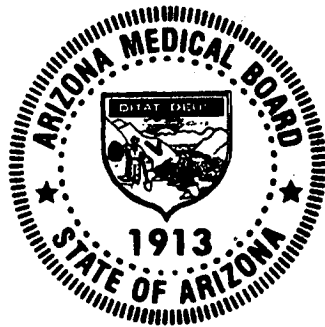
22           **25.** The Board retains jurisdiction and may initiate new action based upon any  
23 violation of this Order.

24           **26.** Respondent shall immediately obtain a treating psychiatrist approved by  
25 Board Staff and shall remain in treatment with the psychiatrist until further order of the

Executive Director. Respondent shall instruct the psychiatrist to release to Board Staff, upon request, all records relating to Respondent's treatment, and to submit quarterly written reports to Board Staff regarding diagnosis, prognosis, medications, and recommendations for continuing care and treatment of Respondent. The reports shall be submitted on or before the 15th day of March, June, September and December of each year, beginning on or before March, 2006.]

DATED and effective this 13<sup>th</sup> day of October, 2006.

(SEAL)



ARIZONA MEDICAL BOARD

By

[Signature]  
TIMOTHY C. MILLER, J.D.  
Executive Director

ORIGINAL of the foregoing filed  
this 13<sup>th</sup> day of October, 2006 with:

Arizona Medical Board  
9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing mailed  
this 13<sup>th</sup> day of October, 2006 to:

Tom Slutes Esq.  
Slutes, Sakrison, & Hill PC  
33 N Stone Avenue Suite 1000  
Tucson AZ 85701-1411

EXECUTED COPY of the foregoing mailed  
this 13<sup>th</sup> day of October, 2006 to:

Walter J. Jasin, M.D.  
Address of Record

[Signature]

Investigational Review